MOTION FILED
AUG 13 1979

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1978

79-10

No. A-1026

THE UNIVERSITY OF TENNESSEE, et al.
Petitioners

v.

RITA SANDERS GEIER, et al.
Respondents

On Application for Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit

MOTION FOR LEAVE TO FILE BRIEF AMICUS CURIAE ON BEHALF OF UNIVERSITY OF TENNESSEE

* * * * *

Motion of University of Tennessee at Nashville Chapter of American Association of University Professors (UT-N AAUP)

* * * * *

LEWIS L. LASKA, J.D., Ph.D.
117 Capitol Hill Building
301 7th Avenue N.
Nashville, Tennessee 37219

Attorney for Amicus Curiae

Motion for Leave to File Brief Amicus Curiae

The University of Tennessee at Nashville Chapter of the American Association of University Professors (UT-N AAUP) respectfully moves this court for leave to file a brief in this case as amicus curiae. Attorneys for petitioners University of Tennessee and the Tennessee Higher Education Commission have given consent, as has the Solicitor General and Plaintiff-Intervenors Richardson et al. The other parties have withheld consent.

Interest of Amicus Curiae

The UT-Nashville Chapter of the American Association of University Professors (AAUP) is the local affiliate of the national AAUP and seeks to advance the standards, ideals and welfare of UT-Nashville faculty, consistent with national AAUP standards of institutional practice. These national standards, formulated as Statements, are considered normative in American higher education. This Court has, in the past, acknowledged AAUP standards in determining the reach of the

Constitution on campus. Board of Regents v. Roth, 408 U.S. 564 n. 17 (1972).

Two of the AAUP's more important Statements are Statement on Government of Colleges and Universities and The 1940 Statement on Academic Freedom and Tenure. The former, Statement on Government, assigns to the institution's faculty a major role in setting educational policy. The second defines the rights and duties of responsible faculties in carrying out educational policies and institutional goals. Taken together, these documents comprise an "educational Magna Carta" which help preserve individual rights and maintain educational equilibrium in times of stress and conflict. This is true whether the crisis of the moment is a Red scare, student unrest or a drastic change in institutional organization.

The instant case concerns the constitutional power of a federal court to order a desegregated but predominantly white college merged into a predominantly Black college. Thus the decision affects the faculty's ability to influence institutional policy and programs; and it sharply curtails the affected faculty

members' personal contractual and constitutional rights. Hence this is an appropriate case to call upon the AAUP Statements for guidance.

Equally important, the UT-N AAUP Chapter is an instrument for promoting desegregation, and its members, as officers of an educational institution have an independent duty to apprise this Court of the educational merit of the relief ordered herein. Amicus will alert this Court that the present posture of this case is likely to frustrate the goal of desegregation because the decisions below lack standards by which to measure successful desegregation and the decisions lack standards which insure viable educational programs. According, amicus will address educational grounds why this Court should grant the writ of certiorari.

The UT-N AAUP Chapter respectfully requests this Court to grant it permission to file its brief amicus curiae in this case.

Respectfully submitted,

Lewis L. Laska, J.D., Ph.D.
Counsel for Amicus Curiae

CERTIFICATE OF SERVICE

I hereby certify that all parties required to be served have been served and that I have mailed copies of the foregoing document to the attorneys below this 13th day of ~~June~~ August, 1979.

Lewis L. Laska

William J. Haynes
Asst. Atty. General
State of Tennessee
450 James Robertson Pky.
Nashville, TN 37219

Robert Reinstein
Appellate Section
Department of Justice
Washington, D.C. 20530

Nate Douglas
Civil Rights Div.
Department of Justice
Washington, D.C. 20530

George Barrett
217 2nd Ave. N.
Nashville, TN 37201

Tom W. Steele
Box 2757
Nashville, TN 37219

Jack Greenberg
Juanita Christian
Suite 2030
10 Columbus Circle
New York, NY 10019

Joseph Fuller
426 Shelby St.
Kingsport, TN
37660

Bruce Shine
700 Sullivan
Kingsport, TN
37660

Beach Brogan
Univ. of Tenn.
810 Holt Tower
Knoxville, TN

Al Knight
215 2nd Ave. N.
Nashville, TN
37201

Avon Williams
1414 Pky.Towers
404 Jas.Robertson Parkway
Nashville, TN
37219

Wade McCree, Jr.
Solicitor General, Dept. of Justice
Washington, D.C.
20530